

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0496**

In the Matter of:

Brooke Lea Simpson,
Appellant,

vs.

Miguel Alvarez Soto, Sr.,
Respondent.

**Filed March 17, 2025
Affirmed
Larkin, Judge**

Ramsey County District Court
File No. 62-HR-CV-23-804

Brooke Simpson, New Brighton, Minnesota (pro se appellant)

Miguel Alvarez Soto, Sr., New Brighton, Minnesota (pro se respondent)

Considered and decided by Larkin, Presiding Judge; Ede, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Pro se appellant challenges the district court's dismissal of her petition for a harassment restraining order against respondent neighbor, as well as the district court's determination that a witness was not obligated to comply with a subpoena. We affirm.

FACTS

On July 24, 2023, appellant Brooke Lea Simpson petitioned the district court for a harassment restraining order (HRO) against her neighbor, respondent Miguel Alvarez Soto Sr., on her own behalf and on behalf of her service dog. Simpson's HRO petition alleged that Soto (1) "rams" her "back plant supports and is breaking them," (2) takes pictures of her, (3) shines lights in her face, (4) has security cameras that point at the windows of her home, (5) has a mirror on his porch that points at her home, (6) "body checked" her house, and (7) watches her when she arrives home.

The district court granted Simpson's petition for an ex parte HRO. Soto denied the allegations and requested a hearing. Simpson did not appear at the hearing, and the district court dismissed the matter. Simpson then moved to reopen the matter. The district court granted her motion and scheduled an evidentiary hearing. The ex parte HRO was not reinstated.

On December 26, 2023, the parties appeared for the hearing. The district court received approximately 30 exhibits from Simpson, and it heard testimony from Simpson and Soto. Most of the exhibits are videos taken from Simpson's security cameras that are placed around her home and a camera on the dashboard of her vehicle. Some of the security cameras were pointed towards Soto's home and the street in front of the parties' homes. The videos depict vehicles parked and driving on the street, a light shining from a home, and Soto and others going to and from his home. One video shows Simpson and a woman shouting at one another about people "staring" at Simpson. Five of the exhibits are photos taken of tall grass growing next to Simpson's home.

Simpson testified that she is “a victim of gaslighting” and that Soto and his family try to “set [her] up.” She testified that Soto appears when she is outside, that he backs his car up to park in front of her van, that he revs the engine of his car, and that he stares at her. She maintained that there is a mirror placed on the porch of Soto’s home that allows him to see her house and her parking spot. Simpson testified that Soto “body-checked” her house. She asserted that grass grows in Soto’s yard next to her home and causes damage to her home. Simpson testified that she does not feel safe.

Soto testified that he has not “had any type of communication” with Simpson and that he “never disrespected” her. He denied following Simpson or watching her. He stated he wants Simpson to leave him “in peace.”

At the conclusion of the first day of the hearing, the district court took the matter under advisement. Because Simpson claimed she had subpoenaed Krista Kizlik, the manager of the mobile home park where Simpson and Soto reside, the district court indicated that it would consider whether testimony from Kizlik would be helpful to decide the petition and that if such testimony would be helpful, it would schedule a continued hearing. The district court subsequently filed an order to show cause requiring Kizlik to appear and continuing the evidentiary hearing.

During the second day of the hearing, Kizlik’s counsel informed the district court that Kizlik had received the subpoena. The subpoena required document disclosures and had “the box checked for testimony,” but it did not indicate where the hearing would take place and not all of the subpoena’s pages were served. Kizlik’s counsel also informed the court that a check for the nonparty-witness testimony was not provided as required by rule.

The district court determined that “the subpoena was either not served or not properly served or that the process was not perfected” and declined to find Kizlik in contempt of court. The district court then reopened the evidentiary hearing and provided the parties an opportunity to examine Kizlik. Simpson requested a continuance because she did not receive the documents that she had requested from Kizlik and was not prepared to elicit testimony from her. The district court denied that request.

Kizlik confirmed that Soto resided at his address. She testified that the mobile park rules indicate residents are responsible for maintaining their lawn, but there is some “gray area” concerning the area directly next to a neighboring home. Kizlik testified that Simpson has complained about Soto’s vehicles and that the complaints were determined invalid.

The district court denied Simpson’s HRO petition and dismissed the matter. By separate order, the district court determined it would not find Kizlik in contempt for failure to comply with Simpson’s subpoena.

Simpson appeals.¹

DECISION

This is Simpson’s sixth appearance as a party in an HRO appeal to this court.² Nonetheless, we begin with the general principles that govern our review. “The function

¹ Soto did not file a brief or a motion for an extension in this case. This court ordered that the case shall be determined on the merits under Minn. R. Civ. App. P. 142.03.

² See *Simpson v. Duque*, No. A24-0100 (Minn. App. Jan. 10, 2025) (order op.) (affirming the district court’s dismissal of Simpson’s HRO petition); *Simpson ex rel. Minor Child v. Maldonado*, No. A24-0145, 2024 WL 5196404, at *5 (Minn. App. Dec. 23, 2024) (affirming the district court’s dismissal of Simpson’s HRO petition against a neighbor);

of the court of appeals is limited to identifying errors and then correcting them.” *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). This court may not “usurp[] the role of the [district] court by reweighing the evidence and finding its own facts.” *Id.* Moreover, “on appeal error is never presumed. It must be made to appear affirmatively before there can be reversal. . . . [T]he burden of showing error rests upon the one who relies upon it.” *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (quotation omitted). Additionally, issues that are not adequately briefed are forfeited. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (“This issue was not argued in the briefs and accordingly must be deemed [forfeited].”). “An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.” *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971).

I.

Simpson contends that the district court erred in its findings of fact, its credibility determinations, and its conclusion that Soto’s conduct did not constitute harassment.³

Simpson ex rel. Minor Child v. Andrade, No. A24-0073, 2024 WL 5116410, at *4 (Minn. App. Dec. 16, 2024) (affirming the district court’s dismissal of Simpson’s HRO petition against a neighbor); *Carpio ex rel. Minor Child v. Simpson*, No. A23-1117, 2024 WL 2268228, at *1 (Minn. App. May 20, 2024) (affirming the district court’s grant of an HRO against Simpson in favor of a neighbor), *rev. denied* (Minn. Aug. 20, 2024); *Lopez v. Simpson*, No. A23-0424, 2023 WL 8536491, at *1 (Minn. App. Dec. 11, 2023) (affirming the district court’s grant of an HRO against Simpson in favor of a neighbor).

³ Simpson also assigns error to other district court rulings. For example, she asserts that the district court erred by not reinstating the ex parte HRO after the district court reopened the matter, by allowing her only 30 minutes to present testimony, by denying her request for a continuance, and by reviewing admitted evidence outside the presence of the parties. Because Simpson does not support these assertions of error with adequate briefing, legal

“Ultimately, the issuance of an HRO is reviewed for abuse of discretion.” *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022) (quotation omitted).

“A district court’s findings of fact will not be set aside unless clearly erroneous” *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *rev. denied* (Minn. Sept. 29, 2004). Findings of fact are clearly erroneous “when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). “In applying the clear-error standard, we view the evidence in a light favorable to the findings.” *Id.* This court does not “weigh the evidence as if trying the matter *de novo*,” and we will not conclude that the district court erred unless “we are left with a definite and firm conviction that a mistake has been committed.” *Id.* (emphasis omitted) (quotations omitted). And we “need not go into an extended discussion of the evidence to prove or demonstrate the correctness of the findings.” *Id.* at 222 (quotation omitted).

Three pages of Simpson’s informal brief describe her exhibits and approximately fourteen pages appear to be excerpts from the hearing transcript.⁴ Throughout her brief, Simpson alleges that the district court made “clearly erroneous” findings, but she does not

authority, or argument, and we do not discern obvious prejudicial error, we do not consider them. See *Melina*, 327 N.W.2d at 20; *Schoepke*, 187 N.W.2d at 135.

⁴ Simpson’s brief is not paginated. It is approximately 24 pages long.

adequately explain why the challenged findings are not reasonably supported by the evidence as a whole.

The district court heard testimony regarding Simpson's HRO petition over the course of two days. The district court provided a detailed memorandum explaining why it denied Simpson's HRO petition, as well as the factual circumstances on which it had relied. The memorandum summarized the testimony and exhibits presented to the district court. And the district court noted that it "carefully reviewed all of the videos and photographs received into evidence" and summarized the content of the video exhibits. Having reviewed the record, we discern no clear error in factual findings reflected in the district court's memorandum.

As to Simpson's assertion that the district court erred in its credibility determinations, we do not "decide issues of witness credibility" because such issues "are exclusively the province of the factfinder." *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (quotation omitted); *see also* Minn. R. Civ. P. 52.01 ("Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the [district] court to judge the credibility of the witnesses."). The district court specifically determined: "This court did not find [Simpson] credible. This court found [Soto] credible. This court also found Kizlik credible." We defer to the district court's credibility determinations and will not reweigh them.

Finally, as to Simpson's assertion that the district court erred in concluding that Soto's conduct did not constitute harassment, the district court "may" issue an HRO if

certain requirements are met, including that “the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b) (2024). As is relevant here, harassment is defined to include “repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.” *Id.*, subd. 1(a)(1) (2024).

Harassment “requires both objectively unreasonable conduct or intent on the part of the harasser and an objectively reasonable belief on the part of the person subject to harassing conduct.” *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *rev. denied* (Minn. Mar. 28, 2006). Conduct that “goes beyond an acceptable expression of outrage and civilized conduct, and instead causes a substantial adverse effect on another’s safety, security or privacy” is objectively unreasonable. *See Kush*, 683 N.W.2d at 846.

In finding that Simpson had not proved harassment, the district court explained:

None of [Soto]’s behavior depicted in the videos is objectionably unreasonable, nor does it show any intent on [Soto]’s part to harass [Simpson]. [Simpson] believes that [Soto]’s brief glances in her direction, failure to mow the lawn, or presence near his home constitutes harassment. This is not an objectively reasonable belief. The exhibits submitted by [Simpson] do not support her contentions of harassment; in fact, they refute them. There are no reasonable grounds to find harassment has occurred.

Accordingly, [Simpson] has failed to show that [Soto] has engaged in harassment under Minn. Stat. § 609.748.

Given the definition of harassment and the record, the district court did not abuse its discretion in determining that Soto's conduct did not constitute harassment.

II.

Simpson contends that the district court abused its discretion in declining to require Kizlik to provide documents pursuant to a subpoena. A district court has broad discretion to impose a contempt sanction. *Minn. State Bar Ass'n v. Divorce Assistance Ass'n*, 248 N.W.2d 733, 740 (Minn. 1976).

In her brief, Simpson includes excerpts from Minn. R. Civ. P. 45.03(b), which provides protections for a person subjected to a subpoena for document production, and Minn. R. Civ. P. 45.02(d), which requires compensation of certain witnesses who are subpoenaed. But she does not explain how these rules support her assertion of error. Instead, she claims that she reached out to both Kizlik and Kizlik's counsel "to see if there was anything further that needed to be provided," but neither responded. Simpson states that she "cannot make a reasonable determination as to what the cost would be without communication."

When the parties discussed the subpoena issue at the hearing, the district court indicated it had not been provided with a copy of the subpoena or an affidavit of service of the subpoena. And the district court noted that a previous order denied Simpson's request for a waiver of costs associated with a subpoena. Based on the available information, the district court concluded that the subpoena was deficient. Nonetheless, the district court reopened the evidentiary hearing and heard testimony from Kizlik. After the hearing, the district court found that Simpson "did not provide evidence to show a compliant subpoena

was ever served on the witness. The subpoena was deficient, and service of process was deficient.” Accordingly, the district court concluded Kizlik “had no obligation to comply with the alleged subpoena” and did not find Kizlik in contempt of court. The district court did not abuse its discretion by determining that Kizlik had no obligation to comply with a deficient subpoena or by declining to find Kizlik in contempt.

In sum, Simpson has not met her burden to show prejudicial error entitling her to relief from this court.

Affirmed.